



Goal 5 Cultural Areas Rule Update

The Land Conservation and Development Commission (LCDC) amended implementing rules for Statewide Planning Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces at the December 2024 LCDC meeting. The amendment created a new rule within Goal 5 to define cultural areas. Oregon Administrative Rule 660-023-0210 now provides definitions and describes requirements and options for local governments' consideration of cultural areas. These rules will go into effect January 1, 2026.

Background

Prior to this rulemaking, the Department of Land Conservation and Development (DLCD) last reviewed Statewide Planning Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces in the mid-1990s. For that effort, DLCD convened a work group, which recommended revisions to Goal 5 that were adopted by the commission in 1996. This created a new set of rules for the inventory and protection of Goal 5 resources. However, the work group recommended waiting to develop rules related to cultural areas until government-to-government relationships between the state and Tribal Nations were better established. Until the 2024 rulemaking, cultural areas remained undefined.

Rulemaking

The new rule defines cultural areas as archaeological sites and landscape features of cultural interest. This includes landscape features that are:

- Integral to a tribe's history, legends, traditions, and stories
- Traditionally used for wayfinding
- Traditionally used for gathering first foods and materials
- Integral to ongoing tribal cultural practices
- Traditional trails
- Sites that support traditions of a culturally identified group

Notice to Tribes

This rulemaking is intended to improve coordination with tribes and advance more inclusive land use planning processes. The adopted rules will require cities and counties to notify tribes when a development project is proposed that could impact an archaeological site or culturally significant landscape feature. Tribes' responses to these notices will inform local government recommendations to applicants and property owners to avoid impacts on known or suspected sites. Cities are also required to notify tribes when considering urban growth boundary expansions, since this is another opportunity to avoid impacts to significant cultural areas. Although the urban growth boundary expansion process already allowed public comment, these new provisions make the process clearer.

The rules set baseline notice requirements for all cities and counties. Local comprehensive plan amendments are not required; rather, these rules apply to all cities and counties whether or not



they incorporate the rules into their local plan. A city or county can replace the baseline notice procedures with customized government-to-government coordination agreements with one or more tribes. Since these agreements are culturally unique, however, a government-to-government agreement with one tribe cannot replace the baseline notice procedures for another tribe.

DLCD and the Legislative Commission on Indian Services will provide each city and county a list of tribes with ancestral connections to the land within their jurisdiction. These will be the tribes that local governments must notify.

Protection of Archaeological Sites

To increase awareness of archaeological resource protections and developers' responsibilities under existing state law, the rule requires local governments to include information about state laws and permit requirements on local permit applications. When local governments receive an application for development that would result in land disturbance, the local government must inform tribes and review the application through a public process. When an application is found to be complete, a local government will send a follow up notice that informs tribes of how to access the complete application and comment if they wish.

The rule also allows local governments to require preconstruction archaeological surveys in areas identified as having a high likelihood of being an archaeological site. A local public process is required if a city or county wants to adopt avoidance and mitigation measures that don't rely on those required by a state archaeological permit.

Inventory and Protection of Culturally Significant Landscape Features

This rulemaking also clarified the roles of local governments in implementing rules relating to culturally important landscape features. Consistent with other resource protection processes outlined in Statewide Planning Goal 5, a public process is required to assess landscape features and determine if a feature should be added to a local inventory of significant resource sites. A public process is also required to identify appropriate protection measures for significant sites. Local governments can protect a site or features by placing limits on new developments that conflict with the ability of a tribe or culturally identified group to engage with the cultural qualities of the feature. If the change would result in a reduction of use of the property, a Measure 56 notice would be required.

Ongoing Work

DLCD will develop and provide guidance to cities and counties in Oregon before the rules go into effect on January 1, 2026. DLCDC will provide cities and counties with descriptions of state archaeological laws to include on applications and guidance for amending local procedures regarding notices to tribes and treatment of responses in the spring of 2025. DLCDC and the Legislative Commission on Indian Services will also work together to provide each city and county a list of tribes to whom they must send notice and guidance on building government-to-government relations in the fall of 2025.

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